

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

James Robert Bates,

Plaintiff,

v.

Case No. 16-14324

OBell Thomas Winn,  
James Roth,

HON. SEAN F. COX

Defendants.

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**ORDER ADOPTING 11/12/19 REPORT AND RECOMMENDATION**

On December 12, 2016, Plaintiff James Robert Bates (“Plaintiff”), a prison inmate in the custody of the Michigan Department of Corrections, filed a *pro se* complaint under 42 U.S.C. § 1983. Thereafter, the Court referred the matter for pretrial proceedings before Magistrate Judge Anthony Patti.

Plaintiff’s complaint named the following defendants: (1) O’Bell Thomas Winn (“Winn”), the Warden at Saginaw Correction Facility; and (2) James Roth (“Roth”), a non-retired Inspector at the G. Robert Cotton Correctional Facility. Plaintiff alleges that defendants failed to protect him from assault by fellow inmates in violation of his Eighth Amendment rights. On June 3, 2019, Defendants filed a motion for summary judgment. (ECF No. 33). After full briefing, on November 12, 2019, Magistrate Judge Patti issued a twenty-four page Report and Recommendation (“the R&R”) wherein he explained the standard of review that applies to this motion, set forth the governing legal standard, and then evaluated Defendants’

arguments. Magistrate Judge Patti concludes that, viewing the evidence in favor of Plaintiff, non-moving party, that (1) Defendants failed to establish that Plaintiff did not exhaust his administrative remedies, (2) Plaintiff has established a genuine issue of material fact as to whether Winn and Roth violated his Eighth Amendments rights regarding inmate Geoffrey Miller, (3) Plaintiff has established a genuine issue of material fact as to whether Winn violated his Eighth Amendment rights as to inmate Justin Schneider, and (3) Winn and Roth are not entitled to qualified immunity. Magistrate Judge Patti also concludes that Plaintiff has failed to establish a genuine issue of material fact as to whether Roth violated his Eighth Amendment rights regarding inmate Schneider. As such, Magistrate Judge Patti recommends that Defendants' motion be granted in part and denied in part. (ECF No. 42).

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a Magistrate Judge must file objections to the R&R within fourteen (14) days after being served with a copy of the R&R. "The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made." *Id.*

On December 16, 2019, after twice being granted extensions, Defendants filed objections to the R&R. Plaintiff filed a response on January 6, 2020.

Having carefully reviewed the magistrate judge's R&R, and having considered Defendants' objections to it, the Court concludes that the magistrate judge applied the correct legal standard and concurs with both his analysis and conclusions.

Accordingly, the Court ADOPTS the magistrate judge's November 12, 2019 R&R. IT IS FURTHER ORDERED that Defendants' motion for summary judgment is GRANTED IN PART AND DENIED IN PART.

IT IS SO ORDERED.

s/Sean F. Cox  
Sean F. Cox  
United States District Judge

Dated: February 11, 2020